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In the Supreme Court of the United States

OCTOBER TERM, 1968

No.

UNITED STATES OF AMERICA, APPELLANT

v.

ARMOUR & COMPANY AND GENERAL HOST CORPORATION

ON APPEAL FROM THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS

JURISDICTIONAL STATEMENT

OPINION BELOW

The findings of fact, conclusions of law and judgment order of the district court (App. A, *infra*, pp. 1a–9a) are not reported.

JURISDICTION

The order of the district court, denying the government's petition to make General Host Corporation a party and to issue an injunction against it, was entered on January 30, 1969. The notice of appeal was filed March 28, 1969. The jurisdiction of this Court is conferred by Section 2 of the Expediting Act of February 11, 1903, 32 Stat. 823, as amended, 15 U.S.C. 29. *United States* v. *United Shoe Machinery Corp.*, 391 U.S. 244; *United States* v. *Parke, Davis & Co.*, 362 U.S. 29.

QUESTIONS PRESENTED

The Meat Packers Consent Decree of 1920 (App. B, *infra*) prohibits Armour & Company and other large meat packers from dealing directly or indirectly in most commodities sold in the general grocery business, from having any interest in a corporation dealing in such commodities, and from engaging in the retail distribution of meat products. General Host Corporation, which is in the bakery, convenience grocery and restaurant businesses, was not a party to this decree. The questions presented are:

1. Whether the acquisition by General Host Corporation of a controlling stock interest in Armour & Company creates a relationship in violation of the consent decree.
2. If the answer to the first question is "yes," whether, under Section 5 of the Sherman Act, the district court should have made General Host Corporation a party to the decree proceedings and issued an order against it to prevent or eliminate violation of the decree.

STATUTES INVOLVED

Section 5 of the Sherman Act, 15 U.S.C. 5, provides:

> Whenever it shall appear to the court before which any proceeding under section 4 of this title may be pending, that the ends of justice require that other parties should be brought before the court, the court may cause them to be summoned, whether they reside in the district in which the court is held or not; and subpoenas to that end may be served in any district by the marshal thereof.

The All Writs Act, 28 U.S.C. 1651, provides in pertinent part:

> (a) The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.

STATEMENT

On February 27, 1920, the United States filed a bill in equity against Swift & Company, Armour & Company, Wilson & Company, Inc., the Cudahy Packing Company, and Morris & Company, then the nation's leading meat packers, charging that they and some 80 other associated corporations and individuals were attempting to monopolize a substantial part of the nation's food supply and to extend the monopoly by various means.[1] The stated purpose of the suit was to end the monopoly and deprive the defendants of the instrumentalities by which it was being achieved. See *Swift & Co.* v. *United States*, 276 U.S. 311, 319.

Simultaneously with the filing of the bill and the defendants' denials, there was filed a stipulation consenting to the entry of an agreed decree. The decree granted comprehensive relief in accordance with the prayer of the bill. Among other things, it enjoined the corporate defendants from using or permitting

[1] The case was filed in the Supreme Court of the District of Columbia, the predecessor to the United States District Court for the District of Columbia. In 1958, in proceedings for modification of the decree, the case was transferred under 28 U.S.C. 1404(a) to the Northern District of Illinois. *United States* v. *Swift & Company*, 158 F. Supp. 551 (D.D.C.).

others to use their distribution systems or facilities to handle a large variety of specified non-meat products (Paragraph Third, App. B, *infra*, pp. 12a–13a); from directly or indirectly engaging in the business of handling, and owning any interest in a concern engaged in handling, fourteen specified classes of foods and other products (Paragraph Fourth, App. B, *infra*, pp. 13a–17a); and from owning, operating or conducting any retail meat markets (Paragraph Sixth, App. B, *infra*, p. 21a).

After unsuccessful challenges to the validity of the entry of the consent decree,[2] some of the defendants sought twice, first in 1930 and then in 1956, to have the decree modified so as to permit their entry into various aspects of the general grocery business. Both of these attempts were unsuccessful. *United States* v. *Swift & Co.*, 286 U.S. 106; *United States* v. *Swift & Co.*, 189 F. Supp. 885 (N.D. Ill.), affirmed, 367 U.S. 909.

Armour & Company (Armour), one of the defendants bound by the decree, is the second largest meat packer in the United States. Armour has total assets of almost $700 million and had total sales in 1967 of approximately $2,150,000,000. In addition to meat packing, it has diversified into the manufacture, processing and sale of various non-prohibited products, such as dairy products, soaps and household cleaners, industrial chemicals, pharmaceuticals, construction equipment, heavy machinery and industrial equipment. (Moody's *Industrial Manual*, July 1968, pp. 2469–2473.)

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[2] See *Swift & Co.* v. *United States*, *supra*; *United States* v. *California Cooperative Canneries*, 279 U.S. 553.

General Host Corporation (General Host), which until April 1967 was known as General Baking Company, is a smaller company engaged in the manufacture and sale of numerous food products, including bread, crackers, candy and frozen convenience foods. Its bakery divisions operate under the brand names "Bond," "Van de Kamp's" and "Eddy." In addition, General Host operates approximately 380 convenience food stores under the name "Li'l General" Stores; it also operates lodges, restaurants and other facilities in Yellowstone and Everglades National Parks, and several restaurants and coffee shops in the Los Angeles area. (Findings of Fact 1–2.) Thus, it is uncontested that General Host, which is not a party to the Meat Packers Decree, is engaged in lines of business that Armour, as a party to the decree, would be prohibited to enter directly or through stock ownership.

Early in 1969, General Host, which then held approximately 16½ percent of Armour's outstanding common stock, decided to make an exchange offer to acquire at least 51 percent of Armour's stock (Findings of Fact 8–9; Affidavit of Harris J. Ashton). The Armour management vigorously opposed the takeover attempt and cannot be charged with any acts tending

[2] In 1967, General Host had assets of $62 million and total sales of approximately $155 million (Affidavit in Support of Government's Petition, p. 4). However, these figures do not include the sales or assets of "Li'l General Stores, Inc.," which was merged into General Host on July 19, 1968. For the 54 weeks ended on October 5, 1968, combined sales totaled $156 million and assets as of that date were approximately $84 million (Proxy Statement filed December 27, 1968, pp. 14, 32).

or designed to create any relationship between the two companies.

On January 20, 1969, the government filed a petition in the meat packers proceeding for a temporary restraining order and an injunction supplemental to the consent decree to restrain General Host from acquiring any additional shares of stock in Armour and from taking any action to exercise control over or to influence the business affairs of Armour as long as General Host deals in products prohibited under the decree. The petition prayed that, to this end, General Host be brought before the court under Section 5 of the Sherman Act.

On January 21, 1969, a hearing was held on the government's petition. General Host filed affidavits and a response urging the court not to make it a party under Section 5 because its exchange offer did not violate the decree. The court ruled that it would deny the government's petition, stating that while the decree prohibits the defendants from holding a controlling interest in a company handling any of the prohibited products, it does not prohibit such a company from controlling one of the defendants (Tr. 37–38).[4] The court stated that the acquisition of Armour by General Host would not necessarily put Armour in any of General Host's other businesses and that such a consequence was not imminently threatened (Tr. 17, 42–43). On January 30 the court entered findings, conclusions and an order denying the petition

[4] "Tr." refers to the transcript of the hearing held on January 21, 1969, which is included in the record in this Court.

to make General Host a party and denying the requested injunctive relief (App. A, *infra*, pp. 1a–9a).[5]

THE QUESTIONS ARE SUBSTANTIAL

The district court's decision in this case completely frustrates the structural relief provided in the 1920 consent decree by sanctioning the very relationship between a meat packing and a general food company which the decree prohibits. Under the court's ruling the meat packing and general food businesses may be combined, notwithstanding the decree, so long as only the food company is the active party and the meat packer does not voluntarily assist it or agree to any consensual arrangements.

The ruling below invites general frustration of structural prohibitions in antitrust decrees through involuntary takeovers, an increasingly common business phenomenon. The decision thus has significance not only for the instant consent decree, but generally for the government's entire decree enforcement program in monopolization and merger cases. Other antitrust decrees provide similar structural prohibitions, and such decrees may be an increasingly important ele-

[5] We are informed that within a short time after the district court's ruling, General Host had acquired 57 percent of Armour's stock. At the February 21 annual meeting of Armour, General Host voted its stock so as to place four directors on Armour's 17-member board of directors. (Only six of the 17 directors were up for election at this meeting; through cumulative voting, Armour's management, which opposed General Host's offer, was able to re-elect two directors.) The four General Host directors include the President and the Chairman of the Board of General Host.

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ment in future cases involving industrial concentration.

We believe the court below has seriously erred in holding that courts of equity are powerless to prevent a third party from defeating the purpose of an antitrust decree by interfering with a defendant's obligations to avoid certain industrial relationships. This is a matter of great importance to the administration of present and future antitrust judgments.

1. General Host's acquisition of control over Armour creates a relationship that violates the Packers Decree. The clear purpose of the 1920 decree was to keep the meat packers—of which Armour is one—separate from the general grocery business and the other lines of commerce specified in Paragraphs Third and Fourth. The decree contained no time limit, for, as the court below observed when it denied the defendants' petition for modification in 1960, "[t]he separation, once complete, was to continue." *United States* v. *Swift & Co.*, 189 F. Supp. 885, 909 (N.D. Ill.). This separation is destroyed when one of the defendants becomes associated with a firm in a prohibited line of commerce, regardless of the form the transaction takes. It is immaterial whether a defendant itself engages in a prohibited business, acquires an interest in a firm in that business, consents to its own acquisition by such a firm, or is acquired by such a firm against its will by a successful tender or exchange offer to its stockholders. The structural dangers against which the decree was directed are present in

all of these situations. Accordingly, the acquisition of a controlling interest in Armour by General Host is as inconsistent with the decree as would be the acquisition of General Host by Armour.

In holding that General Host's control of Armour would not create a threatened or imminent violation of the decree (Conclusion of Law 5), the court below failed to recognize that the decree was designed to prevent certain *relationships* from coming into existence. If it were necessary to wait until General Host causes Armour to "engage in running super markets or retail butcher stores" (Tr. 17) or otherwise exercise its economic power in a prohibited line of commerce, the prophylactic function of the decree's structural provisions would be substantially undermined.* By attempting, through its exchange offer, to take over Armour, and thereby to create the kind of relationship prohibited by the decree, General Host has interfered with Armour's obligation not to engage, directly or indirectly, in legal or economic association with firms in the grocery or retail meat business. In other words, it has forced upon Armour an involuntary violation of the decree.

If the effectiveness of structural restrictions in antitrust decrees were to depend on whether or not a defendant entering such a relationship does so voluntarily, then form, rather than substance, would be

*The structural restrictions in the decree were, of course, designed to eliminate the need for proof in particular future situations that the meat packers were actually engaged in business operations in the prohibited lines—the mere creation of a direct or indirect relationship was barred by the decree.

controlling. This Court has consistently held, however, that "adequate relief in a monopolization case should put an end to the combination and deprive the defendants of any of the benefits of the illegal conduct, and break up or render impotent the monopoly power found to be in violation of the Act." *United States* v. *Grinnell Corp.*, 384 U.S. 563, 577. See, also, *United States* v. *du Pont & Co.*, 366 U.S. 316, 326; *United States* v. *United States Gypsum Co.*, 340 U.S. 76, 88–90. To this end, defendants are often enjoined from entering or expanding operations in certain markets. Because such decrees naturally run only against the named parties, they could be easily frustrated, under the analysis of the court below, by an involuntary takeover of a defendant. For example, one of the major consequences of the instant decree was the divestiture by Swift & Company, another large meat packer, of a substantial interest in Libby, McNeill and Libby, a leading canner of fruits and vegetables. Under the interpretation of the decree adopted by the court below, Libby would nonetheless have been free to acquire Swift, and thus to recreate the exact combination which the decree was intended to dissolve.

We recognize that decrees do not run against the world and that "a decree will not be expanded by implication or intendment beyond the meaning of its terms when read in the light of the issues and the purpose for which the suit was brought * * *." *Terminal Railroad Association* v. *United States*, 266 U.S. 17, 29. But the history and purposes of the Meat Packers Decree demonstrate that we are not asking for any such inappropriate extension. For, in order

to end the packers' attempt to monopolize, the decree expressly barred Armour from directly or indirectly dealing in or having any interest in a firm dealing in the prohibited products. This plainly meant that Armour was not to become economically identified with such firms regardless of whether it did so voluntarily or involuntarily. We seek only to preserve the integrity and effectiveness of the decree in the business context of today.[7]

2. For the foregoing reasons, it is clear that effectuation of the Meat Packers Decree requires that the improper control relationship between General Host and Armour be eliminated or corrected. We do not believe that a court of equity is powerless to fashion a remedy in this situation.

To be sure, General Host cannot now be deemed to be in contempt of the decree, since its language—as heretofore framed—does not bind General Host *in personam*. And, on the other hand, Armour's innocence of any responsibility for creating the forbidden relationship makes it impossible to prevent the takeover by an order directed against Armour. Accordingly, pursuant to the retention of jurisdiction in Paragraph Eighteenth of the Decree (App. A, *infra*,

[7] Neither *Hughes* v. *United States*, 342 U.S. 353, nor *Liquid Carbonic Corp.* v. *United States*, 350 U.S. 869, reversing *per curiam* 123 F. Supp. 653 (E.D.N.Y.), is inconsistent with this position. In both cases this Court reversed interpretations of consent decrees which effectively deprived the defendants of rights preserved to them in the decrees they accepted. Here no such rights of a defendant are involved—it is undisputed that the decree prohibits Armour from having any interest in a company such as General Host.

(p. 29a) "for the purpose of * * * adding to the foot of this decree such other relief, if any, as may become necessary or appropriate for [its] carrying out and enforcement * * *", the government requested the court below to make General Host a party and issue a supplemental order against its takeover actions. There was no jurisdictional or procedural impediment to the court's doing so.

Section 5 of the Sherman Act provides a clear and ample jurisdictional basis for bringing a non-party before the court when the ends of justice so require. Although such action does not *ipso facto* make a decree's provisions binding upon the supplemental party, *United States* v. *Bayer Co.*, 105 F. Supp. 955 (S.D.N.Y.), it enables the court to issue an appropriate further order to effectuate the decree.

Courts of equity have inherent power to protect their decrees against frustration by the actions of a third party; the federal courts' power in this regard is expressly affirmed in the All Writs Act, 28 U.S.C. 1651(a). See, *e.g.*, *Bullock* v. *United States*, 265 F. 2d 683, 691 (C.A. 6), certiorari denied, 360 U.S. 909; *United States* v. *Wallace*, 218 F. Supp. 290 (N.D. Ala.). Cf. *Federal Trade Commission* v. *Dean Foods Co.*, 384 U.S. 597. As stated in *Mississippi Valley Barge Line Co.* v. *United States*, 273 F. Supp. 1 (E.D. Mo.), affirmed *sub nom. Osborne* v. *Mississippi Valley Barge Line Co.*, 389 U.S. 579:

> It is well settled that the courts of the United States have the inherent and statutory (28 U.S.C.A. § 1651) power and authority to enter such orders as may be necessary to enforce and effectuate their lawful orders and judgments.

> and to prevent them from being thwarted and interfered with by force, guile or otherwise. [Citations omitted.] This rule applies whether or not the person charged with the violation of the judgment or decree was originally a party defendant to the action. [273 F. Supp. at 6.]

Since General Host's control of Armour frustrates and defeats the Meat Packers Decree, the district court should have enjoined its actions to acquire control,[8] or, in the alternative, should have ordered General Host to divest itself of any interest in lines of commerce prohibited to Armour.

3. The remedial aspects of antitrust cases are of crucial importance to effectuation of the statutory objectives (*Cascade Natural Gas Corp.* v. *El Paso Natural Gas Co.*, 386 U.S. 129; *United States* v. *du Pont and Co.*, 366 U.S. 316, 323; cf. *United States* v. *United Shoe Machinery Corp.*, 391 U.S. 244, 252). As the history of the Meat Packers Decree demonstrates, this is as true of consent decrees as it is of litigated cases.[9] Structural relief of the kind involved in the Meat Packers Decree is an important instrument among the broad and flexible forms of antitrust relief which are available in both classes of suit. It has been used in a variety of monopolization and merger cases in which the offense charged was essentially structural in nature.[10] Moreover, as substantive antitrust law dealing

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[8] Any future order would, of course, speak of divestiture since control has now been acquired.

[9] Nearly three-fourths of the government's antitrust judgments are consent decrees.

[10] For example, three of the five "movie" decrees prohibit defendants engaged in production of films from entering the exhibition business and bar exhibitor chains formed under the

with monopolization and multi-line firms develops, relief which restricts entry into certain markets will be of continuing importance to the reduction of excessive concentration in the economy.

Because antitrust decrees naturally run only against the named defendants and those in active concert or participation with them,[11] they could easily be frustrated, under the district court's reasoning here, by the device of an involuntary takeover of a defendant effected by a tender or exchange offer. In recent years this has become an increasingly common means of corporate expansion.[12] If antitrust remedies are

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decree from going into production. *United States* v. *Lucas, Inc.*, 1950-51 Trade Cases 64,261 (S.D.N.Y.), 1950-51 Trade Cases 64,344 (S.D.N.Y.), 1952-53 Trade Cases 67,324 (S.D.N.Y.). The judgments in *United States* v. *Dentists' Supply Co. of New York* and *United States* v. *Pennwalt Chemicals Corp.*, 1967 Trade Cases ¶ 81,844, ¶ 81,846 (E.D. Pa.), prohibit the defendants from acquiring directly or indirectly any financial interest in any dental supply house. The decree in *United States* v. *United Fruit Company*, 1958 Trade Cases 68,790 (E.D. La.), bars the defendant from engaging in or acquiring control of a company engaged in importing or distributing bananas in the United States; the judgment in *United States* v. *MCA, Inc.*, 1962 Trade Cases 70,872 (S.D. Calif.), enjoined the defendant for a period of 7 years from acquiring any major television production or distribution company or any major theatrical or motion picture production or distribution company or any major phonograph record production or distribution company.

[11] Fed. R. Civ. P. 65(d). See *Alcatel Mfg. Corp.* v. *Stop*, 12 F. 2d 832, 833 (C.A. 2); *United Pharmacal Corp.* v. *United States*, 306 F. 2d 515 (C.A. 1).

[12] The *1968 Mergers Summary*, published by W. T. Grimm and Company, reported (p. 8) 210 tenders for 1968 as against 116 the previous year and 41 in 1966. The report anticipates increased use of the direct offer by large corporations. Congress has also been concerned about the problem. In July 1968

not to be frustrated by the mere form in which corporate amalgamations are cast, the district court's decision cannot be permitted to stand.

CONCLUSION

For the foregoing reasons, probable jurisdiction should be noted.

Respectfully submitted.

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APRIL 1969.

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it adopted P.L. 90-439, 82 Stat. 454, which requires disclosure of certain information relating to cash tender offers for ten percent or more of any class of equity securities registered under the Securities Exchange Act. See H. Rep. No. 1711, 90th Cong., 2d Sess.

Chairman Budge of the Securities and Exchange Commission recently testified on corporate takeovers. From July 29, 1968, to February 28, 1969, 54 cash tender offers were recorded involving a total offering price of over $1,423,000,000. He did not give precise figures for the total number of exchange offers used in corporate takeovers, but his testimony indicated increasing use of such offers. They often involve, for tax purposes, a combination of preferred stock, debt securities and stock warrants. In 1968 over $11,220,000,000 in securities was registered with the Commission for the purpose of exchange. See Statement of Hamer H. Budge, Chairman, SEC, Before the House Committee on Ways and Means on Corporate Acquisitions and Combinations, March 12, 1969.

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APPENDIX A

In the United States District Court for the Northern District of Illinois, Eastern Division

Civil Action No. 58 C 613

UNITED STATES OF AMERICA, PETITIONER

v.

SWIFT AND COMPANY, ET. AL., DEFENDANTS

FINDINGS OF FACT

1. General Host Corporation was incorporated under the laws of New York in 1911 as the General Baking Company and adopted its present name in April 1967. Its headquarters are located in New York, New York.

2. General Host through its divisions and wholly owned subsidiaries, engages in the manufacture and sale of several types of food products, including bread, crackers, candy and frozen convenience foods. In addition, it operates coffee shops and restaurants in the Los Angeles, California area; operates inns, lodges, restaurants and other facilities in Yellowstone National Park and Everglades National Park; and operates approximately 380 convenience stores. (Government Petition, paragraph 4.)

3. On February 27, 1920, a consent decree was entered in this case against 135 defendants: the so-called "Big Five" of the meat packing industry, including

Armour & Co., 80 corporate subsidiaries and 50 individuals.

4. Paragraph fourth of the decree, upon which the Government now relies, enjoined "the corporation defendants and each of them * * *, either directly or indirectly, by themselves, or through their officers, directors, agents, or servants [from] engaging in or carrying on, either by concert of action or otherwise * * *" the manufacturing, jobbing, selling, transporting, distributing or otherwise dealing in certain specified products or commodities, including bread, wafers, crackers and biscuits. The decree also enjoined the defendants from owning stock in any corporation engaged in the operations of the designated businesses. Paragraph fourth makes no reference to the interests or operations of non-defendant stockholders of the corporate defendants.

5. General Host Corporation was not a party to the action, did not consent to the decree, and at the time of the decree, did not own stock in Armour & Co. General Host is not alleged to have participated in any violations of the antitrust laws charged in this action.

6. In August, 1968, General Host acquired from Gulf & Western Industries, Inc., 150,000 shares of common stock of Armour. In October, 1968, General Host acquired an additional 600,000 shares of Armour common stock from Gulf & Western Industries, Inc., and in November and December purchased an additional 252,500 shares on the open market. General Host's present holdings of Armour common stock represent approximately 16.5% of Armour's outstanding shares. (Government Petition, paragraphs 5–6.)

7. General Host's present holdings of Armour stock do not give it control of Armour and are sufficient only to enable it to obtain one and possibly two positions on Armour's seventeen man Board of Directors. (Ashton Affidavit, paragraph 7.)

8. On January 20, 1969, the shareholders of General Host authorized an offer to be made to the holders of the common stock of Armour whereby General Host would exchange a combination of General Host debentures and warrants for Armour common stock. The company plans to institute the exchange offer on or after January 28, 1969. (Ashton Affidavit, paragraph 9.)

9. General Host's objective in proposing its exchange offer is to obtain a majority of the outstanding shares of Armour voting stock. A condition of the exchange offer is that General Host will reject all Armour shares tendered unless sufficient shares are tendered to increase General Host's percentage holdings of outstanding Armour voting stock to an amount in excess of 50%. (Ashton Affidavit, paragraphs 8–9.)

10. Armour's Certificate of Incorporation and By-Laws provide that the Board of Directors shall consist of 17 persons, divided into 3 classes, groups of 6 and 5 being elected in successive years, sometimes referred to as a staggered Board of Directors. Each Armour director has a 3 year term of office. 6 directors are due to be elected in 1969, 5 in 1970, and 6 in 1971. (Ashton Affidavit, paragraphs 10–13.)

11. Only 6 of Armour's present 17 directors are standing for election at the forthcoming 1969 Annual Meeting. Therefore, even if every presently outstand-

ing share of Armour stock were tendered to General Host, it does not appear presently possible for General Host to elect more than 6 directors out of 17 at the 1969 Annual Meeting. (Ashton Affidavit, paragraphs 10–13.)

12. The Armour By-Laws also provide for cumulative voting. Thus, it is unlikely that General Host's exchange offer will result in the acquisition of sufficient voting shares to enable it to elect more than 4 or 5 directors at the 1969 Annual Meeting. (Ashton Affidavit, paragraphs 11–13.)

13. Armour's By-Laws also provide for an Executive Committee which is elected by the directors and which presently consists of 11 of the 17 directors, including the Chairman and the President. This Executive Committee may exercise most of the powers of the Board of Directors in the management of the business affairs of Armour. Thus, even if General Host were to elect 6 directors at the 1969 Annual Meeting, it could be foreclosed from any representation on the Executive Committee of the Board. (Ashton Affidavit, paragraphs 13–14.)

14. So long as the present management retains a majority position on the Board of Directors and the Executive Committee, the present management may continue to control the operations of Armour.

15. The present exchange offer will not result in any merger or consolidation of General Host and Armour. Specific approval of a merger or consolidation is required by a two-thirds vote of the stockholders of both corporations. The vote must be taken pursuant to notice and meeting of stockholders in accord-

ance with New York and Delaware law. No steps have been instituted to seek such approval. (Ashton Affidavit, paragraph 15.)

16. An injunction against the proposed exchange offer would cause irreparable injury to General Host Corporation. (Ashton Affidavit, paragraphs 18–24.)

17. Armour filed, but later withdrew, a petition in this court seeking to enjoin General Host's purchase of stock from Armour shareholders. Armour has appeared at the hearing of this petition in support of the position of the Government. (Transcript, pp. 6–8; 21–25.)

18. Armour's present management has vigorously opposed General Host's proposed exchange offer; has proposed acquisition of other corporations in exchange for Armour common stock which would have the effect of diluting General Host's stock interest; has sought to interfere with General Host's relations with banks; and has placed full page advertisements in various newspapers criticizing the proposed exchange transaction. (Ashton Affidavit, paragraphs 18–24.)

19. The Government contends that because Armour is prohibited from engaging in the food businesses listed in the decree, control of Armour by a company engaged in one or more of those businesses would also violate the decree.

20. The decree has not been construed to limit the business activities of non-defendant Armour stockholders nor to charge Armour with engaging in the businesses in which its controlling stockholders are engaged.

21. The interpretation of the decree for which the Government contends goes beyond the plain language of the decree. It cannot be considered a logical extension of the decree.

22. The equity bill which commenced this proceeding and the decree are summarized in *United States* v. *Swift & Co., et al.*, 189 F. Supp. 885 (N.D. Ill. 1960).

23. The consent decree was obviously the product, in principal part, of extensive negotiation between the defendants and the Government and is a detailed and carefully worded decree.

24. The principal reason for the provisions in issue was to restrict the corporate defendants in the use of the vast power they had acquired to extend their power into other markets. The situation which the Government challenges here, however, is substantially different from that with which the 1920 decree was concerned. General Host is not a large meat packer extending its monopolistic grasp toward the rest of the food industry and through the use of its already established distributing facilities, superior financial resources and other means making a dominant position felt, resulting in a restraint of trade by squeezing out present or potential competitors. Rather, General Host, a wholly separate corporate entity, has acquired some shares of Armour stock and evinced an interest in acquiring additional shares.

25. The theory of the Government's petition is that paragraph fourth of the decree, which enjoins Armour and the other corporate defendants from engaging in or carrying on the manufacturing, et cetera, of the listed products and commodities and from

owning stock in a corporation so engaged, also prohibits Armour's controlling stockholders from so engaging in business in the listed commodities. (Transcript, pp. 13–18.)

26. Paragraph fourth of the decree expressly applies only to the "corporation defendants". The portions of the decree relied upon by the Government do not restrain the activities or interests of non-defendant stockholders of the corporate defendants.

27. The omission of stockholders or successors and assigns from the reach of paragraph fourth evidences an intent that only the corporate defendants and those acting on their behalf be enjoined by that paragraph.

CONCLUSIONS OF LAW

1. The 1920 decree does not prohibit nondefendant owners of stock in meat packing companies from engaging in businesses prohibited to the meat packers themselves by the decree.

2. General Host is neither a party, privy to a party, nor in active concert or participation with a party to the consent decree entered in this case in 1920 and, therefore, is not bound by its provisions.

3. General Host is not charged with violation of the antitrust laws nor with participation in the offenses charged by the 1920 Bill in Equity which commenced this proceeding.

4. The 1920 decree does not prohibit control of Armour & Co. by General Host.

5. No violation of the 1920 decree is threatened or imminent.

6. The petition for injunction does not set forth any grounds upon which relief could be granted against General Host Corporation in this case.

7. The ends of justice do not merit that General Host Corporation be made a party to this action pursuant to 15 U.S.C. § 5.

Dated this 30th day of January, 1969.

Enter:

JULIUS J. HOFFMAN,
United States District Judge.

In the United States District Court for the Northern District of Illinois, Eastern Division

Civil Action No. 58 C 613

UNITED STATES OF AMERICA, PETITIONER

v.

SWIFT AND COMPANY, ET AL., DEFENDANTS

JUDGMENT ORDER

After full hearing of the petition for injunction filed by the Government in this proceeding on January 20, 1969, and upon consideration of the petition, the memoranda and affidavits in support of and in opposition to the petition, the record of the hearing held on January 21, 1969, and the findings of fact and conclusions of law heretofore adopted by this court, it is this 30th day of January, 1969.

Ordered that the Government's request that summons be issued pursuant to 15 U.S.C. § 5 commanding General Host Corporation to appear and answer the

allegations contained in the petition is denied; and it is

Further ordered that the Government's requests for a temporary restraining order and an injunction against General Host Corporation are denied; and it is

Further ordered that the Government's petition for injunction is denied.

Enter:

JULIUS J. HOFFMAN,
United States District Judge.

APPENDIX B

In the Supreme Court of the District of Columbia

No. 37623. Equity

THE UNITED STATES OF AMERICA, PETITIONER

v.

SWIFT AND COMPANY AND OTHERS, DEFENDANTS

DECREE AND CONSENTS

This cause having come on to be heard on this 27th day of February, in the year 1920, before the Hon. Walter I. McCoy, Chief Justice, and the petitioner having appeared by the Hon. A. Mitchell Palmer, Attorney General of the United States, by its district attorney, John E. Laskey, and by Isidor J. Kresel, John H. Atwood, and Joseph Sapinsky, special assistants to the Attorney General, thereto duly authorized, and having moved the court for an injunction in accordance with the prayer of its petition; and it appearing to the court that the allegations of the petition state a cause of action against the defendants under the provisions of the act of July 2, 1890, entitled "An act to protect trade and commerce against unlawful restraints and monopolies," and acts amendatory thereof and supplemental or additional thereto, and that the court has jurisdiction of the persons and the subject matter; and the several defendants having accepted service of process and having appeared and filed answers to the petition, which answers are on file in the office of the clerk of this court; and

the parties having this day entered into a stipulation in this action, which stipulation is on file in the office of the clerk of this court, and from which it appears, among other things, that while the defendants and each of them, maintain the truth of their answers and assert their innocence of any violation of law in fact or intent, they nevertheless, desiring to avoid every appearance of placing themselves in a position of antagonism to the Government, have consented and do consent to the making and entry of the decree now about to be entered without any findings of fact, upon condition that their consents to the entry of said decree shall not constitute or be considered an admission and the rendition or entry of said decree, or the decree itself, shall not constitute or be considered an adjudication that the defendants or any of them have in fact violated any law of the United States.

Now, upon the petition, the answers of the defendants, and the aforementioned stipulation and consents of the parties, all on file in the office of the clerk of this court, and on motion of the petitioner, it is ordered, adjudged, and decreed as follows:

First. That the corporation defendants and each of them be, and they are hereby, jointly and severally perpetually enjoined and restrained from, either directly or indirectly, by themselves or through their officers, directors, agents, or servants, in any manner maintaining or entering into any contract, combination, or conspiracy with each other, or with any other person or persons, in restraint of trade or commerce among the several States, or from either directly or indirectly, by themselves or through their officers, directors, agents, or servants, either jointly or sever-

ally monopolizing or attempting to monopolize or combining or conspiring with each other, or with any other person or persons, to monopolize any part of such trade or commerce.

Second. That the defendants and each of them be, and they are hereby jointly and severally perpetually enjoined and restrained from owning, either directly or indirectly, individually or by themselves, or through their officers, directors, agents or servants, any capital stock or other interest whatsoever in any public stockyard market company in the United States, or in any stockyard terminal railroad in the United States, or in any stockyard market newspaper or stockyard market journal published in the United States, except in so far as the court may permit any of the individual defendants to retain any such interests upon the conditions and in such circumstances as are provided for in paragraph tenth of this decree; and said defendants and each of them are hereby further enjoined and restrained from accepting or permitting to be given, directly or indirectly, on any pretext whatever, to any of them, or to any of their officers, directors, servants, or employees, for the use and benefit of the corporation defendants or any of them, any capital stock or other interest in any public stockyard market company, stockyard terminal railroad, or stockyard market newspaper or stockyard market journal.

Third. That the corporation defendants and each of them and their successors and assigns be, and they are hereby, perpetually enjoined and restrained from, either directly or indirectly, by themselves or through their officers, directors, agents, or servants, through any device or arrangement whatsoever, using or permitting any other person, firm, or corporation to use

their distributive system and facilities, including their branch houses, route cars, and auto trucks, or any of them, in any manner for the purchase, sale, handling, transporting, distributing, or otherwise dealing in any of the articles or commodities named and described in paragraph fourth of this decree, except in so far as permitted in said paragraph fourth, and except refrigerator cars when in good faith leased to common carriers, or furnished to them for their use as common carriers.

The corporation defendants or any of them may from time to time lease, sell or otherwise dispose of any of the items of their distributive system free from any of the restrictions of this decree when they have a surplusage thereof or when such items have become obsolete or are otherwise not required for the business of the defendants or any of them. But no sale, lease, or other disposition of a substantial part of defendants' respective distributive systems or such distributive system as an entirety shall be made without submitting the same to the court for the court's investigation and determination as to whether said proposed sale, lease, or other disposition is in accordance with the spirit and purpose of this decree, and without notice of the application for such approval first given to the Attorney General. Nothing herein contained shall be construed to prohibit the defendants or any of them from mortgaging or otherwise creating liens on said distributive system or parts thereof.

Fourth. That the corporation defendants and each of them be, and they are hereby, perpetually enjoined and restrained from, in the United States, either directly or indirectly, by themselves or through their officers, directors, agents, or servants, engaging in or

carrying on, either by concert of action or otherwise, either for domestic trade or for export trade, the manufacturing, jobbing, selling, transporting (except as common carriers), distributing, or otherwise dealing in any of the following products or commodities, except when such products or commodities are purchased, transported, or used (1) as supplies in operating their packing houses, branch houses, or other facilities used by them, or as an incident in the processes of manufacturing soap or packing-house products; (2) in the construction and physical maintenance of their packing houses, branch houses, or other facilities used by them; (3) in the operation of their restaurants, laundries, or other conveniences, primarily for the benefit of their employees; or (4) in combination with meat, to wit:

1. Fresh, canned, dried, or salted fish, including therein, but in nowise limiting the foregoing general description, the following to wit:

Canned oysters.	Canned salmon.
Canned mackerel.	Canned sardines.
Bulk mackerel.	Canned shrimp.
Bulk, canned, and cured herring.	Canned tuna fish.

2. Fresh, dried, or canned vegetables, except in combination with meats, including therein, but in nowise limiting the foregoing general description, the following, to wit:

Asparagus.	Potatoes.
Navy beans.	Tomatoes.
Lima beans.	Celery.
Peas.	Garlic.
Beets.	Horse-radish.
Corn.	Pumpkins.
Okra.	

3. Fresh, crushed, dried, evaporated, or canned fruits, including therein, but in nowise limiting the foregoing general description, the following, but not including the same when used as an ingredient of mincemeat, to wit:

Ginger.	Figs.
Cherries.	Gooseberries.
Apple butter.	Oranges.
Apricots.	Strawberries.
Blackberries.	Apples.
Peaches.	Prunes.
Pineapple.	Raisins.
Raspberries.	Dates.
Currants.	

4. Confectionery, sirups, soda-fountain supplies and sirups and soft drinks (grape juice is not included in this paragraph 4; see paragraph 14), including therein, but in nowise limiting the foregoing general description, the following, to wit:

Apple cider.	Lemon extract.
Cherry juice.	Marshmallow topping
Coca Cola.	Orange extract.
Creme de menthe.	Root beer.
Crushed nut frappe.	Vanilla extract.
Ginger ale.	Vin fiz.
Green pineapple sirup.	

5. Molasses, honey, jams, jellies, and preserves of all kinds.

6. Spices, sauces, condiments, relishes, and sauerkraut, including therein, but in nowise

limiting the foregoing general description, the following, to wit:

Catsup.	Olives.
Chili sauce.	Oyster cocktail sauces.
Cinnamon.	Pepper.
Cloves.	Pickles.
Mustard.	Spinace chili.
Mustard seed.	Tomato catsup.

7. Coffee, tea, chocolate, and cocoa.

8. Nuts, including therein the following, to wit: Almonds, pecans, walnuts. But not including peanuts.

9. Flour, sugar, and rye.

10. Bread, wafers, crackers, biscuits.

11. Cereals, including therein, but in nowise limiting the foregoing general description, the following, to wit:

Grits.	Cracked corn.
Oats.	Crushed white oats.
Hominy.	Feed barley.
Hominy feed.	Feed meal.
Horse feed.	Feed wheat.
Brewers' flake.	Rolled oats.
Brewers' grit.	Standard middlings.
Brewers' meal.	Standard spring brand.
Buckwheat.	
Canned hominy.	Spaghetti.
Clipped oats.	Vermicelli.
Corn grits.	Macaroni.
Ground meal.	Corn flakes.
Ground oats.	Wheat foods.
Ground corn.	

12. Grain.

13. Miscellaneous articles, to wit:

Cigars.	Builders' hardware.
China.	Bumping posts for railroads.
Furniture.	Cement, lime, plaster.
Blank stock.	Doors and window frames.
Fence posts and wire fences.	Dried brewers' grains.
Alfalfa meal.	Lath.
Babbitt.	Piling and crane handling machinery.
Bar iron.	Roofing.
Binding and twine.	Sand and gravel.
Brass castings for heavy machinery.	Shingles.
	Soda fountains or parts thereof.
	Structural steel.
Brick.	Tile.
	Waste.

14. Grape juice.

And the corporation defendants and each of them be, and they are hereby, further perpetually enjoined and restrained from owning, either directly or indirectly, severally or jointly, by themselves or through their officers, directors, agents, or servants any capital stock or other interest whatsoever in any corporation, firm, or association except common carriers, which is in the business, in the United States, of manufacturing, jobbing, selling, transporting, except as common carriers, distributing, or otherwise dealing in any of the above-described products or commodities.

Fifth. That the individual defendants and each of them, be, and they are hereby, perpetually enjoined and restrained from, in the United States, either directly or indirectly, by themselves or through their agents, servants, or employees, owning voting stock which in the aggregate amounts to 50% or more of the voting stock of any corporation, except common carriers, or any interest in such corporation resulting in a voting power amounting to 50 per cent or more of the total voting power of such corporation, or which interest by any device gives to any such defendant or defendants a voting power of 50 per cent or more in any such corporation, or a half interest or more in any firm or association which corporation, firm, or association may be, in the United States, in the business of manufacturing, jobbing, selling, transporting, distributing, or otherwise dealing in any of the following products or commodities, to wit:

1. Fresh, canned, dried, or salted fish, including therein, but in nowise limiting the foregoing general description, the following to wit:

Canned oysters.	Canned salmon.
Canned mackerel.	Canned sardines.
Bulk mackerel.	Canned shrimp.
Bulk, canned, and cured herring.	Canned tuna fish.

2. Fresh, dried, or canned vegetables, except in combination with meats, including therein,

but in nowise limiting the foregoing general description, the following, to wit:

Asparagus.	Potatoes.
Navy beans.	Tomatoes.
Lima beans.	Celery.
Peas.	Garlic.
Beets.	Horse radish.
Corn.	Pumpkins.
Okra.	

3. Fresh, crushed, dried, evaporated, or canned fruits, including therein, but in nowise limiting the foregoing general description, the following, but not including the same when used as an ingredient of mince meat, to wit:

Ginger.	Figs.
Cherries.	Gooseberries.
Apple butter.	Oranges.
Apricots.	Strawberries.
Blackberries.	Olives.
Peaches.	Prunes.
Pineapple.	Raisins.
Raspberries.	Dates.
Currants.	

4. Confectionery, liquors, cider, vinegars, apple, grape juices, including therein, but in nowise limiting the foregoing general description, the following, to wit:

Apple cider.	Lemon extract.
Cherry juice.	Strawberry.
Coca Cola.	Lozenges.
Creme de menthe.	Orange extract.
Crushed nut fruits.	Root beer.
Ginger ale.	Vanilla extract.
Grape juice.	Wine.

5. Molasses, honey, jams, jellies, and preserves of all kinds;

6. Spices, sauces, condiments, relishes, and sauerkraut, including therein, but in no way limiting the foregoing general description, the following, to wit:

Catsup.	Olives.
Chili sauce.	Oyster cocktail sauce.
Cinnamon.	Pepper.
Cloves.	Pickles.
Mustard.	Spinace chilli.
Mustard seed.	Tomato catsup.

7. Coffee, tea, chocolate, and cocoa.

8. Nuts, including therein the following, to wit: Almonds, pecans, walnuts. But not including peanuts.

9. Flour, sugar, and rice.

10. Bread, wafers, crackers, biscuits.

And further perpetually enjoining and restraining said individual defendants and each of them from individually or jointly, either directly or indirectly, by themselves or through their agents, servants, or employees, adopting any device or arrangement which by reason of the relation of said individual defendants or any of them to the corporation defendants or any of them would have the purpose or effect of giving to such business of dealing in the articles hereinabove in this paragraph mentioned and described, in which business such individuals or any of them may be substantially interested, an advantage over their competitors similar in purpose or effect to any advantage now enjoyed by any of the corporation defendants through their distributing system.

Sixth. That the defendants and each of them be, and they are hereby, perpetually enjoined and restrained from, in the United States, owning and operating or conducting, either directly or indirectly, severally or jointly, by themselves or through their officers, directors, agents, or servants, any retail meat markets in the United States: Provided, however, That nothing contained in this decree shall prohibit said defendants or any of them from continuing to conduct the retail meat markets located at their several plants and maintained by said defendants primarily for the accommodation of their own employees as long as said retail meat markets shall be continued to be operated for that purpose.

Seventh. That the defendants and each of them be, and they are hereby, perpetually enjoined and restrained from owning, directly or indirectly, jointly or severally, by themselves or through their officers, directors, agents, or servants, any capital stock or other interest whatsoever in public cold storage warehouses in the United States: provided, however, that nothing herein contained shall be construed to prevent the defendants or any of them from owning capital stock or other interests in any corporation, firm, or association owning or operating, or from themselves owning or operating, the public coldstorage warehouses now maintained by the defendants or any of them at stockyards where said defendants or any of them now maintain packing plants, nor to prevent any of said defendants, directly or indirectly, from establishing, owning, maintaining, or leasing necessary cold storage facilities or space required in good faith for the storage of commodities in which they or any of them may be interested, nor from renting space in any cold storage warehouse directly or indirectly owned or

leased by any of them to the public whenever such space is not in good faith required or needed by the defendants for their own use, nor from storing products for the public whenever the space used for that purpose is not in good faith required by the defendants for their own use;

Eighth. That the corporation defendants and each of them be, and they are hereby perpetually enjoined and restrained from engaging in the United States, either directly or indirectly, jointly or severally, by themselves or through their officers, directors, agents, or servants, in the business of buying, collecting, selling, transporting, except as common carriers, distributing or otherwise dealing in fresh milk and cream; and further perpetually enjoining and restraining said defendants and each of them in their own selves or through their directors, officers, agents, and servants, from either directly or indirectly owning any capital stock or other interest in any corporation, firm, or association engaged in the business of buying, collecting, selling, transporting (except as common carriers), distributing or otherwise dealing in fresh milk or cream: provided, however, that nothing herein contained shall be construed as preventing the corporation defendants or their subsidiaries from buying, collecting and transporting fresh milk and cream to be used by them or any of them in manufacturing condensed or evaporated or powdered milk or oleomargarine or other butter substitutes, or butter, ice cream, cheese, or buttermilk, or to be used as feed or in combination with any commodity not specifically mentioned and described in paragraph fourth hereof; and further provided that nothing herein contained

shall be construed as preventing said defendants from selling or otherwise disposing of milk and cream bought or collected for manufacture, when such sale or disposition is necessary to avoid waste.

Ninth. That the corporation defendants and each of them be, and they are hereby, perpetually enjoined and restrained from, jointly or severally, by themselves or through their officers, directors, agents, or servants, engaging in, carrying on, or using any illegal trade practices of any nature whatsoever in relation to the conduct of any business in which they or any of them may be engaged.

Tenth. That within 90 days after the entry of this decree such of the defendants as have interests in public stockyard market companies, stockyard terminal railroads, or market newspapers, shall file in this court, for the court's approval, a plan or plans for divesting themselves of all ownership or interest in: (1) public stockyard market companies; (2) stockyard terminal railroads; (3) market newspapers; provided, however, that the court may, in the event that it deems such provision necessary in order to enable the defendants to divest themselves of their interests in public stockyard market companies and stockyard terminal railroads, upon reasonable terms, permit the individual defendants, or some of them, to retain an interest by way of stock ownership, or otherwise, in any public stockyard market company or stockyard terminal railroad or in any corporation organized to take over such public stockyard market companies or stockyard terminal railroads or the stock thereof; but no defendant or defendants shall at any time, either in-

dividually or jointly, own a controlling interest in any such stockyards or stockyard terminal railroads. Within such period of time after the entry of this decree and the approval of said plan or plans as the court may determine, the defendants shall, in good faith, completely divest themselves of all such ownership or interests in public stockyard market companies, stockyard terminal railroads, and market newspapers. If, within the time so fixed, the defendants shall not have disposed of said interests ordered by the court to be disposed of, and the court upon application shall determine that the defendants have been unable, despite due diligence, to dispose of the same upon reasonable terms, the court may extend the time during which such ownership, control, or interest may continue until the same can be disposed of.

Eleventh. That immediately upon the entry of this decree the defendants shall in good faith and with due diligence proceed to dispose of their interests in, and shall completely divest themselves (to the extent required by this decree) of all ownership of or interest in all public cold-storage warehouses and retail meat markets; but in no event shall the defendants, or any of them, make final disposition of any of their interests in such public cold-storage warehouses and retail meat markets without first obtaining the court's approval to such final disposition. If, within nine months after the entry of this decree, the defendants shall not have finally disposed of their interests in public cold-storage warehouses and retail meat markets, the Attorney General may apply to

the court for an order specifying the time within which the defendants shall finally dispose of all said interests.

Twelfth. That immediately upon the entry of this decree the defendants and each of them shall commence to dispose of such commodities owned or handled by them as are described in paragraphs fourth and fifth of this decree and which are to be disposed of by them under this decree, and shall likewise immediately upon the entry of this decree commence to divest themselves of all interests which are to be disposed of by them as and to the extent required by this decree in firms, corporations, and associations, including departments of the business of any of the corporation defendants when any of such departments is sold as a going concern, manufacturing, selling, or otherwise dealing in any of the commodities so mentioned and described in paragraphs fourth and fifth of this decree, and shall continue in good faith to dispose of said commodities required to be disposed of hereunder, and to divest themselves of such interests required to be disposed of hereunder as rapidly as may be consistent with the nature of the business and the seasonal nature of the merchandise involved, and that in any event the defendants and each of them shall completely dispose of said commodities and shall cease to manufacture, job, sell, transport, except as common carriers, distribute, or otherwise deal in the same, and shall completely divest themselves of said interests within two years from the date of the entry of this decree; provided, however, to the end that the provisions of this decree

may be complied with, the approval of the court shall be obtained prior to the final disposition of said interests in firms, corporations, or associations manufacturing, selling, or otherwise dealing in any of the commodities mentioned and described in paragraphs fourth and fifth of this decree. At any time within said two years the Attorney General may apply to the court for an order or orders to compel the defendants, and each of them, to make report to the court as to the progress being made by them in disposing of said commodities and in divesting themselves of said interests.

Thirteenth. That the purchaser or purchasers of the defendants' interests in any stockyard, shall as a part of said purchase, agree with such defendants as now maintain packing plants in said stockyards that for a period of at least 10 years after the date when such purchase shall be consummated said purchasers, their successors or assigns, will continue to maintain and efficiently operate such stockyards and each of them, and such of said defendants as now maintain packing plants at any of said stockyards shall agree with said purchasers that during the same period of 10 years said defendants, their successors or assigns, will continue to maintain and operate said packing plants at the points where the same are now located, unless strikes, shortage of supplies, or other causes beyond the control of either the purchasers, the stockyard companies, or said defendants shall prevent the carrying out of said agreement. Performance by either party shall be a condition concurrent to performance by the other.

Fourteenth. That nothing in this decree contained shall be construed to prohibit anything that may be otherwise lawfully done by the defendants or any of them in the United States in connection with or for the purpose of export trade or foreign commerce or business of the defendants; provided, however, that nothing in this paragraph contained shall limit the effect of the injunction contained in paragraphs fourth and fifth of this decree.

Fifteenth. That nothing contained in this decree shall be held to preclude the petitioner from proceeding against any or all of the defendants, either civilly or criminally, for any violation of any law in connection with the carrying on by them of the business of buying and selling poultry, butter, eggs, and cheese, or any other business or activity not specifically mentioned in this decree; nor shall anything contained herein prejudice the Government in any such proceeding; nor shall this decree interfere with or prejudice any legal rights, business, or activity of the defendants, or any of them, not prohibited or covered by this decree.

Sixteenth. That for the purpose of (1) enabling the petitioner to ascertain whether the defendants are in good faith carrying out the terms of this decree; and (2) for the purpose of enabling the Attorney General to determine and advise the court whether in any transactions consummated or begun at any time prior to the entry of this decree the defendants, or any of them, have retained and now retain such an interest in or control over any public stockyard market company, stockyard terminal rail-

day of October, nineteen hundred and eighteen, of any of their interests in public stock yard, stock yard exchanges, stock yard terminal railroads, stock yard newspapers or journals, public cold storage warehouses and retail meat markets, or incorporations, firms, or associations manufacturing, jobbing, selling, transporting, except as common carriers, distributing or otherwise dealing in any of the commodities mentioned and described in paragraphs fourth and fifth of this decree, and all leases, contracts, or arrangements or other disposals made by any of the defendants since the first of October, nineteen hundred and fourteen, affecting their delivery systems, shall be submitted by the defendants to the court for its investigation and determination as to whether the same were made in accordance with the spirit and purpose of this decree, in the same manner and with the same force and effect as though the said sales, dispositions, leases, contracts, or arrangements had been made subsequent to the entry of this decree.

Eighteenth. That jurisdiction of this cause be, and is hereby, retained in this court for the purpose of taking such other action or adding to the text of this decree such other relief, if any, as may hereafter seem fit or appropriate for the carrying out and enforcement of this decree and for the purpose of entertaining at any time hereafter any application which the parties may make with respect to this decree.

William J. McCue,
Chief Justice.

Dated ——, 1920.

The defendants Western Meat Company, Oakland Meat & Packing Company, Nevada Packing Company, and Fred L. Washburn, appear herein generally by Henry Veeder, their attorney, and do hereby consent that the foregoing decree may be entered herein upon the stipulation of the parties filed in this cause without further notice.

Henry Veeder,

Attorney for above named defendants.

Dated 27th day of February, 1920.

The defendants Wilson & Co., Inc. (N.Y.), Wilson & Co. (N.J.), Wilson & Co., Inc., of California, Nev.), Wilson & Co., Inc., of Louisiana (La.), Wilson & Co., Inc., of Ohio (Ohio), South Dakota Provision Co., Gotham Hotel Supply Co., Inc., Stand and Beef Co., Stuart & Mora Co., Inc., Diesel Packing Co., Albert Lea Packing Co., Inc., Mississippi Packing Co., Inc., Morton Gleason Co., Paul O. Heymann Co., Standard Provision Co., Central Products Corporation, Thomas E. Wilson, Arthur Lowenstein, Jacob Mesz, Walter D. Greenstreet, Arthur L. Smith, James A. Hamilton, George P. Hopkins, Adolphe F. Peterson, Charles H. Cowen, William C. Roche, Carl F. Burrell, Amos C. Good, appear herein generally by Jewell F. Lightfoot, their attorney, and do hereby consent that the foregoing decree may be entered herein upon the stipulation of the parties filed in this cause without further notice.

Jewell F. Lightfoot,

Attorney for above named Defendants.

Dated Washington, February 27, 1920.

entered herein upon the stipulation of the parties filed in this cause with the further change.

Charles J. Patterson, Jr.,

Attorney for above-named Defendants

Dated Washington, February 27, 1920.

The defendants Morris & Company (Md.), Morris Packing Company (Md.), Morris & Company (N. J.), Morris & Company (Del.), Morris & Company of Pennsylvania (Pa.), Joseph Morris & Sons, Inc., Brooklyn Beef & Provision Co., Candy Beef and Provision Company, Cotton Wells Company, Donnelly & Company, Inc., National Hotel Supply Company, Cunningham & Company, Inc., J. M. Watson Company, Middleton Beef and Provision Company, Olson & Anderson Co., Edward Morris, Nelson Morris, Louis H. Heyman, Charles M. Macfarlane and H. A. Fowler appear herein personally by M. W. Hannen, their attorney, and do hereby consent that the foregoing decree may be entered herein upon the stipulation of the parties filed in this cause without further notice.

M. W. Hannen,

Attorney for above-named Defendants

Dated Washington, February 27, 1920.

The defendants Swift and Company (Ill.), Swift and Company, W. Neeb Beef and Company, Inc. (Ky.), Swift and Company, Ltd. (Can.), Swift and Company (Mo.), Swift Beef Company, (Mo.), Central Packing Co., of New York, E. A. Harrington

and Company, Inc., Hughes Company, The G. H. Hammond Company, Omaha Packing Company, Plankinton Packing Company, Stockyard & Hide Hoof & Supply Company, U. S. Coal Packing Company, Van Wagenen and Schuchman Company, Wm. Rice Packing Company, Hammond Beef Company, Omaha Meat Company, A. Caulfield Commission Company, H. C. Hertz Company, Metropolitan Hoof Supply Company, Vermont Supply Company, The Hotchkiss Co., The New England Dressed Meat & Wool Company, Swift Packing & Provision Company, The Sperry & Barnes Company, John P. Squire & Company (Me.), John P. Squire & Company, Inc. (Mass.), John P. Squire & Company, Inc. (R. I.), Springfield Provision Company, White, Dove, and Hooper Company, Louis F. Swift, Edward F. Swift, Charles H. Swift, Gustavus F. Swift, Jr., Harold H. Swift, Allen B. Swift, George H. Swift, Lucius A. Clarke, Frank S. Hayward, Charles A. Peabody, Wilfred W. Sherman, Wellington Leavitt, John M. Chapin, and William H. Payson, appearing hereby severally by Henry Verder, their attorney, and do hereby consent that the foregoing decree may be entered herein upon the stipulations of the parties filed in the cause without further notice.

Henry Verder,

Attorney for the above named Defendants.

Dated Washington, February 27, 1920.